



AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION



November 10, 2014

Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Policy and Strategy
Chief, Regulatory Coordination Division
20 Massachusetts Avenue, NW.
Washington, DC 20529-2140

Submitted via email: uscisfrcomment@uscis.dhs.gov
Docket ID USCIS- 2010-0004

**Re: Agency Information Collection Activities: Petition for U Nonimmigrant Status, Form I-918, and Supplements A and B of Form I-918; Revision of a Currently Approved Collection (OMB Control Number 1615-0104)
79 Fed. Reg. 53721 (September 10, 2014)**

Dear Sir or Madam,

The American Immigration Lawyers Association (AILA) and ASISTA Immigration Assistance (“ASISTA”) submit the following comments in response to the Department of Homeland Security’s (DHS) Notice of Revision of a Currently Approved Collection: Petition for U Nonimmigrant Status, Form I-918, and Supplements A and B of Form I-918, published in the Federal Register on September 10, 2014.

AILA is a voluntary bar association of more than 13,000 attorneys and law professors practicing, researching and teaching in the field of immigration and nationality law. The organization has been in existence since 1946. Our mission includes the advancement of the law pertaining to immigration and nationality and the facilitation of justice in the field. AILA members regularly advise and represent businesses, U.S. citizens, U.S. lawful permanent residents, and foreign nationals regarding the application and interpretation of U.S. immigration laws.

ASISTA is a national non-profit and co-founding partner of the National Network to End Violence Against Immigrant Women, which worked with Congress to create and expand routes to secure immigration status for survivors of domestic violence, sexual assault and other crimes. ASISTA serves as liaison for the field with Department of Homeland Security personnel charged with implementing these laws, most notably United States Citizenship and Immigration Services (USCIS), Immigration and Customs Enforcement (ICE), and the Department of Homeland Security’s (DHS) Office on Civil Rights and Civil Liberties. ASISTA also trains and provides technical support to local law enforcement officials, civil and criminal court judges,

AILA National Office

1331 G Street NW, Suite 300, Washington, DC 20005
Phone: 202.507.7600 | Fax: 202.783.7853 | www.aila.org

domestic violence and sexual assault advocates, and legal services, nonprofit, pro bono and private attorneys working with immigrant crime survivors.

We appreciate the opportunity to comment on the proposed revisions to Form I-918, Supplements A and B, and the accompanying instructions.

Proposed Changes to Form I-918

Part 2, “Additional Information,” Item 5

The term “Indian Country” is offensive. USCIS should change this language to “Native American land.” The same terminology should be changed on the Instructions for Form I-918, page 3, section (1)(E)(2) under the heading “Who May File Form I-918.”

Part 4, “Information About Your Spouse and/or Children”

USCIS should consider providing extra space for additional children, instead of requiring that the applicant use Part 8, Additional Information.

Proposed Changes to Form I-918 Instructions

Page 1, “Who May File Form I-918”

Two crimes should be added to this section of the form instructions: 1) fraud in foreign labor contracting; and 2) stalking. The Violence Against Women Reauthorization Act of 2013 added these to the qualifying criminal categories found in INA §101(a)(15)(U)(iii). *See* Pub. Law 113-4, 127 Stat. 54 (Mar. 7, 2013).

Proposed Changes to Form I-918, Supplement B

Page 2, Part 3, “Criminal Acts,” Section 1

The Supplement B also lacks the two new crimes added by VAWA 2013. USCIS should include the following crimes in this section: 1) fraud in foreign labor contracting; and 2) stalking. *See* INA §101(a)(15)(U)(iii); Pub. Law 113-4, 127 Stat. 54 (Mar. 7, 2013).

Page 4, Part 6, “Certification”

The certification implies that the signatory **must** contact USCIS if the victim “unreasonably refuses to assist in the investigation or prosecution.” This is beyond what the law requires. The notation should instruct that the signer **may** contact USCIS.

Page 3, Part 4

We are concerned that the new form requests signatures in two different places and requests additional information in two places (in the heading for Part 4, and after each box to be checked in Part 4). This could be deemed onerous for the certifier. USCIS

should consider making the additional information optional. For example, the instruction in the heading to Part 4 could state, “If you answer ‘yes’ to any question in Part 4, *you may* use Part 7, Additional information...” Further, the parenthetical comments following each check box could state, “Attach an explanation, as needed.” USCIS should also consider reconfiguring the form so that it only needs to be signed once. For example, if additional information is required in Part 4, the section for additional information could appear immediately under the check boxes, and the signature could be at the end of that section.

General Comment

Please ensure that all fields on the Form I-918B are fillable in the PDF version. Many law enforcement agencies ask advocates for draft forms which they then edit by hand, if necessary, and sign. Handwritten changes on forms that are already partially handwritten, due to problems with the fillable PDF, can be messy and confusing. Please also ensure that the proposed form accepts punctuation.

Proposed Changes to Form I-918, Supplement B Instructions

Page 1, “Who May File Supplement B”

USCIS should amend this section of the instructions to make it clear that the certifying agency can be any agency that is involved in the “detection, investigation, prosecution, conviction, and sentencing” of the qualifying activity. Currently, this section only includes the terms “investigation and prosecution.” The full description of the qualifying agencies is not enumerated until page 2, Part 2, Item Number 1 under “Specific Instructions.” Unfortunately, this has led some judges and Child Protective Service agencies to believe that they are unable to sign Form I-918, Supplement B.

Page 2, “Specific Instructions,” Part 2

USCIS should clarify that judges are not required to fill out the “Name of Certifying Agency” field or the “Name of Head of Agency” field. The “Name of Certifying Official” and “Title of Certifying Official” fields should be sufficient for judges, who do not work for an agency or have a head official in the same way as other certifying agencies might.

Page 2, “General Instructions”

The instructions state that the form should be written in black ink. However, the instructions also state in several places that the required signatures must be in blue ink. It can be burdensome on certifiers who are filling out the form by hand to complete the form in one color ink, and switch to another ink color to sign. Please consider accepting forms that are hand-written in either blue ink or black ink.

Pages 3-4, Part 4, Item Number 2

The Supplement B instructions state “USCIS will give a properly executed Supplement B, U Nonimmigrant Status Certification significant weight, but it will not be considered ***conclusory*** evidence that the victim has met the eligibility requirements” (emphasis added). We request that USCIS consider changing the word “conclusory” to “conclusive” to more accurately convey the intended meaning of the sentence.

Thank you for the opportunity to comment on the proposed revisions to Form I-918, Supplements A and B, and the accompanying instructions.

Sincerely,
THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION
ASISTA